



CALIFORNIA STATE PERSONNEL BOARD

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ARNOLD SCHWARZENEGGER, Governor



CALIFORNIA STATE PERSONNEL BOARD MEETING

801 Capitol Mall
Sacramento, California

Public Session Location – 801 Capitol Mall

Sacramento, California, Room 150
Teleconference – 320 West 4th Street
Los Angeles, California, Suite 620

Closed Session Location – 801 Capitol Mall

Sacramento, California, Room 141
Teleconference – 320 West 4th Street
Los Angeles, California Suite 620

SUMMARY MINUTES – DECEMBER 19, 2006

MID MONTH BOARD MEETING MINUTES¹

DECEMBER 19, 2006

PUBLIC SESSION OF THE STATE PERSONNEL BOARD

1. ROLL CALL

William Elkins, President
Sean Harrigan, Vice President
Maeley Tom, Member

2. REPORT OF THE EXECUTIVE OFFICER – Floyd D. Shimomura

- A.** The Board Hearing room is transforming from the 1950's to the 21st Century. The installed monitors make the room more versatile for oral arguments, power point presentations, and teleconferencing visible to the audience. The room will also be able to accommodate disciplinary hearings and web-based trainings.
- B.** At its San Francisco meeting, the Board requested that staff contact the Receiver about a meeting with the Board. The Receiver's office responded by indicating the Receiver is considering the January 23, 2007 Board Meeting at which to meet with the Board to discuss issues.
- C.** Pursuant to the December 15, 2006 deadline for the Executive Officer position, 10-15 applications are expected to be received. Applications post-marked by the deadline are still being received.
- D.** Following the Planning Session in San Francisco, the SPB staff conducted an internal strategic planning session to complete the final phase of its process. The staff will be engaging in a joint planning process with DPA and Finance to come up with a plan for reform of the State's human resources system. There is a consensus that we need to move forward on reform.

3. REPORT OF THE CHIEF COUNSEL – Elise Rose

- Following the release of the "Receiver's Third Bi-Monthly Report" in the case of Plata v. Schwarzenegger which was critical of the SPB's refusal to waive drug testing for LVN's working within the prison healthcare system and of the SPB's modification of a penalty in a disciplinary case involving a medical technical assistant, the SPB received a Public Records Act requests from the press pertaining to records relevant to the issues addressed in the report.

¹ The Minutes for the Board Meetings can be obtained at the following internet address:
<http://www.spb.ca.gov/calendar.htm>

- Secretary Ella Cowden has retired after 14 years. The Legal division is currently in the process of looking for a secretary.

4. NEW BUSINESS

NONE PRESENTED

5. REPORT ON LEGISLATION – Sherry Evans

SPB and the Senate and Assembly are in the process of preparing resolutions honoring Mr. Elkins for his tenure on the State Personnel Board as well as his life long commitment to civil rights and equal opportunity for all.

CLOSED SESSION OF THE STATE PERSONNEL BOARD

6. EMPLOYEE APPOINTMENTS, DISCIPLINARY MATTERS, AND OTHER APPEALS

Deliberations to consider matter submitted at prior hearing.
[Government Code Sections 11126(d), 18653.]

7. DELIBERATION ON ADVERSE ACTIONS, DISCRIMINATION COMPLAINTS, AND OTHER PROPOSED DECISIONS SUBMITTED BY ADMINISTRATIVE LAW JUDGES

Deliberations on matters submitted at prior hearing; on proposed, rejected, remanded, and submitted decisions; petitions for rehearing; and other matters related to cases heard by administrative law judges of the State Personnel Board or by the Board itself. [Government Code Sections 11126 (d), and 18653 (2).]
(See Action Taken on Pages 10–16)

8. PENDING LITIGATION

Conference with legal counsel to confer with and receive advice regarding pending litigation when discussion in open session would be prejudicial.
[Government Code sections 11126(e)(1) and 18653.]

Patrick McCollum v. State of California

United States District Court, Northern District of California
Case No. C 04-03339 CRB

Plata, et al. v. Schwarzenegger, et al.

Case No. C01-1351 THE

9. RECOMMENDATIONS TO THE LEGISLATURE

Deliberations on recommendations to the legislature.
[Government Code section 18653.]

NO ACTION

10. RECOMMENDATIONS TO THE GOVERNOR

Deliberations on recommendations to the Governor.
[Government Code section 18653.]

NO ACTION

PUBLIC SESSION OF THE STATE PERSONNEL BOARD

11. DISCUSSION OF UPCOMING BOARD MEETING SCHEDULE OF JANUARY 9-10, 2007, IN SACRAMENTO, CALIFORNIA

The January 9-10, 2007, Board Meeting in Sacramento has been changed to a one day meeting on Tuesday, January 9, 2007.

BOARD ACTIONS:

12. ADOPTION OF THE STATE PERSONNEL BOARD SUMMARY MINUTES OF NOVEMBER 14, 2006

ACTION: ADOPTED

VOTE: Elkins, Harrigan, Tom – Aye

13. EVIDENTIARY CASES

ACTION: See Case Listings on Pages 10–18

14. RESOLUTION EXTENDING TIME UNDER GOVERNMENT CODE SECTION 18671.1 EXTENSION - (See Minutes on Pages 25–26)

ACTION: ADOPTED

VOTE: Elkins, Harrigan, Tom – Aye

15. NON-EVIDENTIARY CASES

ACTION: See Case Listings on Pages 18–21

16. NON-HEARING CALENDAR

The following proposals were made to the State Personnel Board by either the Board staff or Department of Personnel Administration staff.

A. BOARD ITEMS PRESENTED BY STATE PERSONNEL BOARD OR DEPARTMENT OF PERSONNEL ADMINISTRATION TO ESTABLISH, REVISE OR ABOLISH CLASSIFICATIONS, ALTERNATE RANGE CRITERIA, ETC.

NONE

B. ABOLISHMENT OF CLASSES THAT HAVE HAD NO INCUMBENTS FOR MORE THAN TWO YEARS. DEPARTMENTS THAT UTILIZE THE CLASS AS WELL AS THE APPROPRIATE UNION HAVE NO OBJECTION TO THE ABOLISHMENT OF THESE CLASSES.

THE DEPARTMENT OF PERSONNEL ADMINISTRATION AND STATE PERSONNEL BOARD propose to abolish the following unused classifications, which have been vacant for more than twenty-four months. Departments that utilize the class as well as the appropriate union have no objection to the abolishment of these classes. When classes are proposed to be abolished which are part of a class series, and other classes within the series will continue to be used, the class specification is included in the board item.

NONE

17. STAFF CALENDAR ITEMS FOR BOARD INFORMATION

PUBLIC HEALTH SOCIAL WORK CONSULTANT I

The Office of the California Prison Healthcare Receiver on behalf of the California Department of Corrections and Rehabilitation (CDCR) proposes revisions to the Licensed Vocational Nurse (Safety) classification. The Receiver's revisions provide for use of the class within an institutional setting and do not impact current incumbents.

ACTION: NOTED

18. CAREER EXECUTIVE ASSIGNMENT (CEA) CATEGORY ACTIVITY

This section of the Minutes serves to inform interested individuals and departments of proposed and approved CEA position actions.

A. REQUESTS TO ESTABLISH NEW OR REVISE EXISTING CEA POSITIONS CURRENTLY UNDER CONSIDERATION

CHIEF, OFFICE OF HEALTH INFORMATION PORTABILITY AND ACCOUNTABILITY ACT (HIPAA) COMPLIANCE (OHC)

The Department of Health Services proposes to allocate the above position to the CEA category. The Chief Office of HIPAA, OHC will oversee the HIPAA functions related to the development, implementation, and monitoring of all policies to ensure CDHS compliance with the federal requirements for HIPAA.

CHIEF, HOSPITAL FINANCING AND FEDERAL CLAIMING DIVISION

The Department of Health Services proposes to allocate the above position to the CEA category. The Chief, Hospital Financing and Federal Claiming Division serves as the central point for policy development, interpretation, and implementation with respect to hospital financing and federal claiming activities.

CHIEF, MEDI-CAL ELIGIBILITY DIVISION

The Department of Health Services proposes to allocate the above position to the CEA category. The Chief, Medi-Cal Eligibility Division oversees the Medi-Cal Eligibility functions related to development, clarification, implementation, and coordination of all policies and procedures to implement federal and state Medicaid (Medi-Cal) eligibility requirements.

CHIEF, INTERNAL AUDITS

The California State Lottery proposes to allocate the above position to the CEA category. The Chief, Internal Audits will be the audit and internal control subject matter expert responsible for developing policies related to department controls and information security.

CHIEF COUNSEL, DIVISION OF RATEPAYER ADVOCATES

The Public Utilities Commission proposes to allocate the above position to the CEA category. The Chief Counsel, Division of Ratepayer Advocates will play a critical role in the formulation and implementation of Division policy on legal matters as they relate to natural gas, electric, water, and telecommunications issues affecting ratepayers in California.

CHIEF, ADMINISTRATIVE LAW JUDGE

The State Personnel Board proposes to allocate the above position to the CEA category. The Chief, Administrative Law Judge will be the principal policymaker for the evidentiary appeals function within the State Personnel Board.

DEPUTY DIRECTOR, PLATA WORKFOCE PLANNING & MANAGEMENT DEVELOPMENT, DIVISION OF CORRECTIONAL HEALTH CARE SERVICES (DCHCS)

The California Department of Corrections and Rehabilitation proposes to allocate the above position to the CEA category. The Deputy Director for *Plata* Workforce Planning and Management Development will have statewide leadership responsibility for the development, review, modification, monitoring, and implementation of policies and standards for the workforce planning recruitment function in relation to the delivery of medical care under the auspices of the *Plata* Receivership.

ASSISTANT SECRETARY, OFFICE OF PROGRAM AND FISCAL AFFAIRS

The Health and Human Services Agency proposes to allocate the above position to the CEA category. The Assistant Secretary, Office of Program and Fiscal Affairs formulates, analyzes, revises, interprets, and evaluates program and fiscal policies for prevention and public health programs under the jurisdiction of the Health and Human Services Agency.

CHIEF, FIELD TECHNICAL SERVICES DIVISION

The Department of Parks and Recreation is proposing to revise their existing CEA allocation titled Chief, Field Services Division, Park Operations to the above position. The Chief, Field Technical Services Division will have specific responsibility for the development and implementation of all policies pertaining to the department's facility maintenance programs.

ASSISTANT SECRETARY, OFFICE OF PROGRAM AND FISCAL AFFAIRS

The Health and Human Services Agency proposes to allocate the above position to the CEA category. The Assistant Secretary, Office of Program and Fiscal Affairs formulates, analyzes, revises, interprets, and evaluated program and fiscal policies for prevention and public health programs under the jurisdiction of the Health and Human Services Agency.

DEPUTY DIRECTOR, LEGAL AND LEGISLATIVE AFFAIRS

The State Office of the Chief Information Officer proposes to allocate the above position to the CEA category. The Deputy Director, Legal and Legislative Affairs is responsible for four primary functions: provides legal advice to the State Chief Information Officer; represents the State CIO's Office legal needs, plans and initiatives; manages the State CIO's Office legislative affairs; and acts as the Public Information Officer for the State's CIO Office.

DEPUTY DIRECTOR, STRATEGIC PLANNING AND GOVERNANCE

The State Office of the Chief Information Officer proposes to allocate the above position to the CEA category. The Deputy Director, Strategic Planning and Governance is responsible for three primary functions: governance process for enterprise policy development and strategic planning; development and management of the State Information Technology Strategic Plan (ITSP); and direction of the State CIO administrative program and activities.

DEPUTY DIRECTOR, ENTERPRISE INITIATIVES

The State Office of the Chief Information Officer proposes to allocate the above position to the CEA category. The Deputy Director, Enterprise Initiatives is responsible for five primary functions: Statewide Information Technology Initiatives; Enterprise Architecture; Information Technology Standards; Shared Technology Infrastructure and Services; and Green Technology.

DEPUTY DIRECTOR, STATEWIDE POLICY

The State Office of the Chief Information Officer proposes to allocate the above position to the CEA category. The Deputy Director, Statewide Policy is responsible for statewide development of policies that affect all state agencies and departments such as portal framework policies, strategic sourcing, and identify management.

B. EXECUTIVE OFFICER DECISIONS REGARDING REQUESTS TO ESTABLISH NEW OR REVISE EXISTING CEA POSITIONS

ASSISTANT EXECUTIVE OFFICE

The Sierra Nevada Conservancy's proposal to allocate the above position to the CEA category has been approved effective November 28, 2006.

DEPUTY DIRECTOR, CRIME AND VIOLENCE PREVENTION CENTER

The Department of Justice's proposal to allocate the above position to the CEA category has been approved effective November 28, 2006.

DEPUTY TOLL BRIDGE, PROGRAM MANAGER

The Department of Transportation's proposal to allocate the above position to the CEA category has been approved effective November 13, 2006.

CHIEF, STATEWIDE COMPLIANCE DIVISION

The Department of Toxic Substance Control's request to re-allocate the CEA allocation titled Chief, statewide Compliance Division, to the position titled Deputy Director, Enforcement has been approved effective November 9, 2006.

ACTION: NOTED

19. EMPLOYEE APPOINTMENTS, DISCIPLINARY MATTERS, & OTHER APPEALS

Deliberations to consider matter submitted at prior hearing. [Government Code sections 11126(d), 18653.]

20. WRITTEN STAFF REPORT FOR BOARD INFORMATION

NONE

21. PRESENTATION OF EMERGENCY ITEMS AS NECESSARY

NONE

22. BOARD ACTIONS ON SUBMITTED ITEMS

ACTION: See Minutes on Pages 22–24

A D J O U R N M E N T

**WHAT FOLLOWS IS A RECORD OF ACTION TAKEN ON AGENDA ITEMS 13 – 15
AS NOTED.**

13. EVIDENTIARY CASES

The Board Administrative Law Judges conduct evidentiary hearings in appeals that include, but are not limited to, adverse actions, medical terminations, demotions, discrimination, reasonable accommodations, and whistleblower complaints.

A. BOARD CASES SUBMITTED

These items have been taken under submission by the State Personnel Board at a prior meeting.

On December 19, 2006, the Board took the following action on the cases listed as presented by Elise Rose, Chief Counsel, California State Personnel Board.

VOTE: Elkins, Harrigan, Tom – Aye

(1) CASE NO. 05-1737RPA

Appeal from dismissal

Classification: Psychiatric Technician Assistant

Department: Department of Developmental Services

Petition for Rehearing granted March 8, 2006.

Oral argument heard July 11, 2006.

Case ready for decision by FULL Board.

NO ACTION

(2) CASE NO. 05-3030A

Appeal from constructive demotion

Classification: Officer Technician

Department: Department of Developmental Services

Proposed decision rejected May 2, 2006.

Oral argument heard October 31, 2006.

Case ready for decision by FULL Board.

NO ACTION

(3) CASE NO. 06-1433

Appeal from official reprimand

Classification: Correctional Officer

Department: Department of Corrections and Rehabilitation

Proposed decision taken under submission December 5, 2006.

NO ACTION

- (4) **CASE NO. 05-1875A**
Appeal from rejection during probationary period
Classification: Equipment Material Specialist
Department: Department of Transportation

Proposed decision rejected August 8, 2006.
Oral argument heard October 31, 2006.
Case ready for decision by FULL Board.

NO ACTION
- (5) **CASE NO. 05-1567A**
Appeal from dismissal
Classification: Housing Finance Specialist (General)
Department: California Housing Finance Agency

Proposed decision rejected July 11, 2006.
Oral argument heard December 5, 2006.
Case ready for decision by FULL Board.

NO ACTION
- (6) **CASE NO. 05-0078A**
Appeal from dismissal
Classification: Workers' Compensation Payroll Auditor
Department: State Compensation Insurance Fund

Proposed decision rejected May 23, 2006.
Oral argument heard September 5, 2006.
Case ready for decision by FULL Board.

NO ACTION
- (7) **CASE NO. 06-1310**
Appeal from 14 working days suspension
Classification: Regional Administrator
Department: Department of Corrections and Rehabilitation

Proposed decision taken under submission December 5, 2006.

NO ACTION
- (8) **PSC NO. 06-03**
Appeal from Executive Officer Decision Disapproving Personal Services Contract for Unarmed Security Guard Services
Department: Department of California Highway Patrol
Employee Organization: Services Employees International Union, Local 1000 (CSEA)

Oral argument heard October 10, 2006.
Case ready for decision by FULL Board.

NO ACTION

B. CASES PENDING

ORAL ARGUMENTS

NONE

C. CHIEF COUNSEL RESOLUTIONS

NONE

COURT REMANDS

NONE

STIPULATIONS

NONE

D. ADMINISTRATIVE LAW JUDGE'S (ALJ) PROPOSED DECISIONS

PROPOSED DECISIONS

These were ALJ proposed decisions submitted to the Board for the first time.

On December 19, 2006, the Board took the following action on the cases listed as presented by Elise Rose, Chief Counsel, California State Personnel Board.

VOTE: Elkins, Harrigan, Tom – Aye

(1) CASE NO. 05-3400

Appeal from dismissal

Classification: Officer

Department: Department of California Highway Patrol

ACTION: The Board adopted the ALJ's Proposed Decision sustaining the dismissal.

(2) CASE NO. 06-0425

Appeal from formal reprimand

Classification: Physician and Surgeon

Department: Department of Corrections and Rehabilitation

ACTION: The Board adopted the ALJ's Proposed Decision sustaining the formal reprimand.

(3) CASE NO. 06-2346

Appeal from sixty work day's suspension

Classification: Correctional Sergeant

Department: Department of Corrections and Rehabilitation

ACTION: The Board adopted the ALJ's Proposed Decision sustaining the suspension.

- (4) **CASE NO. 06-0622**
Appeal from five percent reduction in salary for 12 months
Classification: Correctional Officer
Department: Department of Corrections and Rehabilitation
ACTION: The Board adopted the ALJ's Proposed Decision sustaining the reduction in salary.
- (5) **CASE NO. 05-4007E**
Appeal from denial of discrimination complaint
Classification: Outside Subcontractor
Department: Department of Transportation
ACTION: The Board rejected the ALJ's Proposed Decision dismissing the complaint.
- (6) **CASE NO. 05-3688**
Appeal from 10 percent reduction in salary for 12 months
Classification: Parole Agent I, AP
Department: Department of Corrections and Rehabilitation
ACTION: The Board adopted the ALJ's Proposed Decision modifying the reduction in salary.
- (7) **CASE NO. 03-3412**
Appeal from rejection during probationary period
Classification: Correctional Counselor II
Department: Department of Corrections and Rehabilitation
ACTION: The Board adopted the ALJ's Proposed Decision affirming the rejection and denying the appeal.
- (8) **CASE NO. 06-1497**
Appeal from rejection during probationary period
Classification: Correctional Officer
Department: Department of Corrections and Rehabilitation
ACTION: The Board adopted the ALJ's Proposed Decision affirming the rejection and denying the appeal.
- (9) **CASE NO. 05-2026**
Appeal from 30 calendar day's suspension
Classification: Associate Property Auditor Appraiser
Department: Board of Equalization
ACTION: The Board adopted the ALJ's Proposed Decision sustaining the suspension.
- (10) **CASE NO. 06-1506**
Appeal from 10 percent reduction in salary for 24 pay periods
Classification: Youth Correctional Officer
Department: Department of Corrections and Rehabilitation
ACTION: The Board adopted the ALJ's Proposed Decision revoking the reduction in salary.

- (11) **CASE NO. 06-2277**
Appeal from dismissal
Classification: Painter II
Department: Department of Corrections and Rehabilitation
ACTION: The Board adopted the ALJ's Proposed Decision modifying the dismissal.
- (12) **CASE NO. 06-1773**
Appeal from official reprimand
Classification: Supervisor of Correctional Education Programs
Department: Department of Corrections and Rehabilitation
ACTION: The Board adopted the ALJ's Proposed Decision revoking the official reprimand.
- (13) **CASE NO. 06-3617**
Appeal from formal reprimand
Classification: Office Assistant (Typing)
Department: Department of Water Resources
ACTION: The Board adopted the ALJ's Proposed Decision dismissing the appeal.
- (14) **CASE NO. 06-0754**
Appeal from dismissal
Classification: Assistant Caltrans Administrator
Department: Department of Transportation
ACTION: The Board adopted the ALJ's Proposed Decision sustaining the dismissal.
- (15) **CASE NO. 06-0728**
Appeal from dismissal
Classification: Senior Psychiatric Technician (Safety)
Department: Department of Mental Health
ACTION: The Board adopted the ALJ's Proposed Decision sustaining the dismissal.
- (16) **CASE NO. 05-3533**
Appeal from dismissal
Classification: Office Assistant (General)
Department: State Compensation Insurance Fund
ACTION: The Board adopted the ALJ's Proposed Decision modifying the dismissal.
- (17) **CASE NO. 06-1745**
Appeal from five percent reduction in salary for 12 months
Classification: Correctional Officer
Department: Department of Corrections and Rehabilitation
ACTION: The Board rejected the ALJ's Proposed Decision and remanded it back to the ALJ for further information.

(18) CASE NO. 06-2391

Appeal from termination without fault

Classification: Correctional Counselor II (Supervisor)

Department: Department of Corrections and Rehabilitation

ACTION: The Board adopted the ALJ's Proposed Decision sustaining the termination.

(19) CASE NO. 06-0011

Appeal from five percent reduction in salary for three months

Classification: Maintenance Supervisor

Department: Department of Transportation

ACTION: The Board adopted the ALJ's Proposed Decision sustaining the reduction in salary.

(20) CASE NO. 05-3308

Appeal from rejection during probationary period

Classification: Licensed Psychiatric Technician

Department: Department of Corrections and Rehabilitation

ACTION: The Board adopted the ALJ's Proposed Decision affirming the rejection and denying the appeal.

PROPOSED DECISIONS TAKEN UNDER SUBMISSION AT PRIOR MEETING

NONE

PROPOSED DECISIONS AFTER BOARD REMAND

NONE

PROPOSED DECISIONS AFTER SPB ARBITRATION

NONE

E. PETITIONS FOR REHEARING

ALJ PROPOSED DECISIONS ADOPTED BY THE BOARD

The Board voted to grant or deny a petition for rehearing filed by one or both parties, regarding a case already decided by the Board.

On December 19, 2006, the Board took the following action on the cases listed as presented by Elise Rose, Chief Counsel, California State Personnel Board.

VOTE: Elkins, Harrigan, Tom – Aye

- (1) **CASE NO. 06-0131P**
Appeal from dismissal
Classification: Building Maintenance Worker
Department: Department of Developmental Services
ACTION: Petition for rehearing denied.
- (2) **CASE NO. 04-2950P**
Appeal from dismissal
Classification: Transportation Engineer (Civil)
Department: Department of Transportation
ACTION: Petition for rehearing denied.

WHISTLEBLOWER NOTICE OF FINDINGS

NONE

F. PENDING BOARD REVIEW

These cases were pending preparation of transcripts, briefs, or the setting of oral argument before the Board.

- (1) **CASE NO. 05-0053A**
Appeal from dismissal
Classification: Park Maintenance Assistant
Department: Department of Parks and Recreation

Proposed decision rejected October 10, 2006.
Transcript prepared.

NO ACTION
- (2) **CASE NO. 06-0760A**
Appeal from rejection during probation
Classification: Parole Agent I (Adult Parole)
Department: Department of Corrections and Rehabilitation

Proposed decision rejected November 14, 2006.
Transcript prepared.

NO ACTION
- (3) **CASE NO. 05-2211A**
Appeal from dismissal
Classification: Senior Tax Compliance Representative
Department: Employment Development Department

Proposed decision rejected September 20, 2006.
Transcript prepared.

NO ACTION

- (4) **CASE NO. 05-2888PA**
Appeal from dismissal
Classification: Staff Services Analyst (General)
Department: Department of Consumer Affairs

Petition for rehearing granted October 31, 2006.
Pending transcript.

NO ACTION
- (5) **CASE NO. 05-0638A**
Appeal from dismissal
Classification: Conservationist I
Department: California Conservation Corps

Proposed decision rejected September 5, 2006.
Transcript prepared.

NO ACTION
- (6) **CASE NO. 04-2919EPA**
Appeal of discrimination and retaliation
Classification: Physician and Surgeon
Department: Department of Corrections and Rehabilitation

Petition for rehearing granted September 20, 2006.
Transcript prepared.

NO ACTION
- (7) **CASE NO. 05-0927BA**
Appeal for back salary determination
Classification: Correctional Sergeant
Department: Department of Corrections and Rehabilitation

Proposed decision rejected December 5, 2006.
Pending transcript.

NO ACTION
- (8) **CASE NO. 05-4416PA**
Appeal from 10 percent reduction in salary for 13 pay periods
Classification: Medical Technical Assistant (Correctional Facility)
Department: Department of Corrections and Rehabilitation

Petition for rehearing granted November 14, 2006.
Transcript prepared.

NO ACTION

(9) CASE NO. 06-0392A

Appeal of five percent reduction in salary for 24 months

Classification: Correctional Officer

Department: Department of Corrections and Rehabilitation

Proposed decision rejected October 31, 2006.

Pending transcript.

NO ACTION

15. NON-EVIDENTIARY CASES

A. WITHHOLD APPEALS

Cases were heard by a Staff Hearing Officer, a managerial staff member of the State Personnel Board or investigated by Appeals Division staff. The Board was presented recommendations by a Staff Hearing Officer or Appeals Division staff for final decision on each appeal.

WITHHOLD FROM CERTIFICATION
CASES HEARD BY A STAFF HEARING OFFICER

NONE

WITHHOLD FROM CERTIFICATION
CASES NOT HEARD BY A STAFF HEARING OFFICER

On December 19, 2006, the Board adopted, as indicated below, the following items as presented by Laura M. Aguilera, Assistant Executive Officer, State Personnel Board.

VOTE: Elkins, Harrigan, Tom – Aye

(1) CASE NO. 05-3640

Classification: Correctional Officer

Department: Department of Corrections and Rehabilitation

Issue: Suitability; negative employment record, and omitted pertinent information.

ACTION: DENIED

(2) CASE NO. 05-3644

Classification: Correctional Officer

Department: Department of Corrections and Rehabilitation

Issue: Suitability; negative employment record, and omitted pertinent information.

ACTION: DENIED

- (3) **CASE NO. 05-3636**
Classification: Correctional Officer
Department: Department of Corrections and Rehabilitation
Issue: Suitability; firearms prohibition.
ACTION: DENIED

- (4) **CASE NO. 05-4160**
Classification: Correctional Officer
Department: Department of Corrections and Rehabilitation
Issue: Suitability; negative employment and driving record, negative law enforcement contacts and furnished inaccurate information.
ACTION: DENIED

- (5) **CASE NO. 05-3649**
Classification: Correctional Officer
Department: Department of Corrections and Rehabilitation
Issue: Suitability; negative employment record and omitted pertinent information.
ACTION: DENIED

- (6) **CASE NO. 05-3651**
Classification: Correctional Officer
Department: Department of Corrections and Rehabilitation
Issue: Suitability; negative employment record.
ACTION: DENIED

- (7) **CASE NO. 05-3586**
Classification: Youth Correctional Officer
Department: Department of Corrections and Rehabilitation
Issue: Suitability; negative employment and driving record, and omitted pertinent information.
ACTION: DENIED

- (8) **CASE NO. 05-2146**
Classification: Correctional Officer
Department: Department of Corrections and Rehabilitation
Issue: Suitability; felony conviction.
ACTION: GRANTED

- (9) **CASE NO. 05-3678**
Classification: Correctional Officer
Department: Department of Corrections and Rehabilitation
Issue: Suitability; illegal drug activity.
ACTION: DENIED

- (10) **CASE NO. 05-3676**
Classification: Motor Vehicle Field Representative
Department: Department of Motor Vehicles
Issue: Suitability; negative driving record.
ACTION: DENIED
- (11) **CASE NO. 05-3292**
Classification: Correctional Officer
Department: Department of Corrections and Rehabilitation
Issue: Suitability; probationary status.
ACTION: DENIED
- (12) **CASE NO. 05-3242**
Classification: Correctional Officer
Department: Department of Corrections and Rehabilitation
Issue: Suitability; negative driving record, negative law enforcement contacts, and failed to meet legal requirements.
ACTION: DENIED
- (13) **CASE NO. 05-3369**
Classification: Correctional Officer
Department: Department of Corrections and Rehabilitation
Issue: Suitability; omitted pertinent information and furnished inaccurate information during the selection process.
ACTION: DENIED
- (14) **CASE NO. 05-3372**
Classification: Correctional Officer
Department: Department of Corrections and Rehabilitation
Issue: Suitability; negative law enforcement contacts.
ACTION: WITHDRAWN BY STAFF
- **CASE NO. 06-3092N**
Classification: Correctional Officer
Department: Department of Corrections and Rehabilitation
ACTION: DISMISSED

B. MEDICAL AND PSYCHOLOGICAL SCREENING APPEALS

Cases were heard by a Staff Hearing Panel comprised of a managerial staff member of the State Personnel Board and a medical professional. The Board was presented recommendations by a Hearing Panel on each appeal.

(1) **CASE NO. 05-3273**

Classification: Cadet, CHP

Department: California Highway Patrol

Issue: The appellant may suffer from periods of over-activity, with concerns about confusion and flight of ideas. It is suggested that she may tend to stir up some excitement when she is bored. She also is characterized by a somewhat abrupt style of expression and often offers candid self-descriptions that were unflattering.

ACTION: DENIED

• **CASE NO. 06-2666**

Classification: Correctional Officer

Department: California Department of Corrections and Rehabilitation

ACTION: DISMISSED

C. **EXAMINATION APPEALS**
MINIMUM QUALIFICATIONS
MERIT ISSUE COMPLAINTS

NONE

D. **RULE 211 APPEALS**
RULE 212 OUT OF CLASS APPEALS
VOIDED APPOINTMENT APPEALS

NONE

E. **REQUEST TO FILE CHARGES CASES**

Investigated by Appeals Division staff. The Board was presented recommendations by Appeals Division staff for final decision on each request.

• **CASE NO. 06-3548N**

Classification: Unknown

Department: Department of Health Services

ACTION: DISMISSED

PETITIONS FOR REHEARING CASES

NONE

SUBMITTED

1. TEACHER STATE HOSPITAL (SEVERELY), ETC.

Departments of Mental Health and Developmental Services. (Hearing held December 3, 2002.)

NO ACTION

2. VOCATIONAL INSTRUCTOR (SAFETY) (VARIOUS SPECIALTIES)

Departments of Mental Health and Developmental Services. (Hearing held December 3, 2002.)

NO ACTION

3. TELEVISION SPECIALIST (SAFETY)

The Department of Corrections proposes to establish the new classification Television Specialist (Safety) by using the existing Television Specialist class specification and adding "Safety" as a parenthetical to recognize the public aspect of their job, additional language will be added to the Typical Tasks section of the class specification and a Special Physical Characteristics section will be added. (Presented to Board March 4, 2003.)

NO ACTION

4. HEARING – Personal Services Contract #04-03

Appeal of the California State Employees Association from the Executive Officer's April 15, 2004, Approval of Master Contracts between the California Department of Corrections and Staffing Solutions, CliniStaff, Inc., Staff USA, Inc., CareerStaff Unlimited, MSI International, Inc., Access Medical Staffing & Service, Drug Consultants, Infinity Quality Services Corporation, Licensed Medical Staffing, Inc., Morgan Management Services, Inc., Asereth Medical Services, and PrideStaff dba Rx Relief. (Hearing held August 12, 2004.)

NO ACTION

5. HEARING

Proposed new and revised State Personnel Board Regulations effecting equal opportunity, discrimination complaints and reasonable accommodation policies and procedures. (Hearing held July 7, 2004.)

NO ACTION

6. CASE NO. 05-1737RPA

Appeal from dismissal. Psychiatric Technician Assistant. Department of Developmental Services. (Oral argument held July 11, 2006.)

NO ACTION

7. CASE NO. 00-3446

Appeal to set aside resignation. Police Officer. California State University, Fresno. (Oral argument held September 5, 2006.)

NO ACTION

8. CASE NO. 05-0078A

Appeal from dismissal. Workers' Compensation Payroll Auditor. State Compensation Insurance Fund. (Oral argument held September 5, 2006.)

NO ACTION

9. PSC NO. 06-03

Appeal from Executive Officer Decision Disapproving Personal Services Contract for Unarmed Security Guard Services. Department of the California Highway Patrol. Service Employees International Union, Local 1000 (CSEA). (Oral argument held October 10, 2006.)

NO ACTION

10. CASE NO. 05-3030A

Appeal constructive demotion. Office Technician. Department of Developmental Services. (Oral argument held October 31, 2006.)

NO ACTION

11. CASE NO. 05-1875A

Appeal from rejection during probationary period. Equipment Material Specialist. Department of Transportation. (Oral argument held October 31, 2006.)

NO ACTION

12. CASE NO. 05-0947A

Appeal from dismissal. Housing Finance Specialist (General). California Housing Finance Agency. (Oral argument held December 5, 2006.)

NO ACTION

13. CASE NO. 06-1814

Appeal from official letter of reprimand. Correctional Officer. Department of Corrections and Rehabilitation. (Presented to Board December 5, 2006.)

NO ACTION

14. CASE NO. 06-1310

Appeal from 14 working days' suspension. Regional Administrator. Department of Corrections and Rehabilitation. (Presented to Board December 5, 2006.)

NO ACTION

15. CASE NO. 05-1975

Correctional Officer. Department of Corrections & Rehabilitation. Suitability; whether appellant's name was properly withheld for DUI convictions. (Presented to Board December 5, 2006.)

NO ACTION

16. CASE NO. 05-1466

Correctional Officer. Department of Corrections & Rehabilitation. Suitability; whether appellant's name was properly withheld for DUI convictions. (Presented to Board December 5, 2006.)

NO ACTION

17. CASE NO. 05-1977

Correctional Officer. Department of Corrections & Rehabilitation. Suitability; whether appellant's name was properly withheld for DUI convictions. (Presented to Board December 5, 2006.)

NO ACTION

18. CASE NO. 05-1029

Correctional Officer. Department of Corrections & Rehabilitation. Suitability; whether appellant's name was properly withheld for DUI convictions. (Presented to Board December 5, 2006.)

NO ACTION

19. CASE NO. 05-2290

Correctional Officer. Department of Corrections & Rehabilitation. Suitability; whether appellant's name was properly withheld for DUI convictions. (Presented to Board December 5, 2006.)

NO ACTION

20. CASE NO. 05-1169

Correctional Officer. Department of Corrections and Rehabilitation. Suitability; whether appellant's name was properly withheld for one DUI conviction. (Presented to Board December 5, 2006.)

NO ACTION

21. CASE NO. 05-1681

Correctional Officer. Department of Corrections & Rehabilitation. Suitability; whether appellant's name was properly withheld for DUI convictions. (Presented to Board December 5, 2006.)

NO ACTION

22. CASE NO. 05-1170

Correctional Officer. Department of Corrections & Rehabilitation. Suitability; whether appellant's name was properly withheld for DUI convictions. (Presented to Board December 5, 2006.)

NO ACTION

NOTICE OF GOVERNMENT CODE SECTION 18671.1 RESOLUTION

Since Government Code section 18671.1 requires that cases pending before State Personnel Board Administrative Law Judges (ALJ's) be completed within six months or no later than 90 days after submission of a case, whichever is first, absent the publication of substantial reasons for needing an additional 45 days, the Board hereby publishes its substantial reasons for the need for the 45-day extension for some of the cases now pending before it for decision.

An additional 45 days may be required in cases that require multiple days of hearings, that have been delayed by unusual circumstances, or that involve any delay generated by either party (including, but not limited to, submission of written briefs, requests for settlement conferences, continuances, discovery disputes, pre-hearing motions). In such cases, six months may be inadequate for the ALJ to hear the entire case, prepare a proposed decision containing the detailed factual and legal analysis required by law, and for the State Personnel Board to review the decision and adopt, modify or reject the proposed decision within the time limitations of the statute.

Therefore, at its next meeting, the Board will issue the attached resolution extending the time limitation by 45 days for all cases that meet the above criteria, and that have been before the Board for less than six months as of the date of the Board meeting.

GOVERNMENT CODE SECTION 18671.1 RESOLUTION

WHEREAS, Section 18671.1 provides that, absent waiver by the appellant, the time period in which the Board must render its decision on a petition pending before it shall not exceed six months from the date the petition was filed or 90 days from the date of submission; and

WHEREAS, Section 18671.1 also provides for an extension of the time limitations by 45 additional days if the Board publishes substantial reasons for the need for the extension in its calendar prior to the conclusion of the six-month period; and

WHEREAS, the Agenda for the instant Board meeting included an item titled "Notice of Government Code section 18671.1 Resolution" which sets forth substantial reasons for utilizing that 45-day extension to extend the time to decide particular cases pending before the Board;

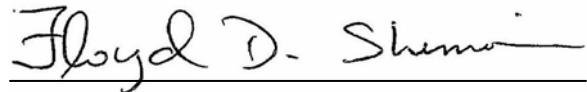
WHEREAS, there are currently pending before the Board cases that have required multiple days of hearing and/or that have been delayed by unusual circumstances or by acts or omissions of the parties themselves;

NOW, THEREFORE, BE IT RESOLVED AND ORDERED that the time limitations set forth in Government Code section 18671.1 are hereby extended an additional 45 days for all cases that have required multiple days of hearing or that have been delayed by acts or omissions of the parties or by unusual circumstances and that have been pending before the Board for less than six months as of the date this resolution is adopted.

* * * * *

I hereby certify that the State Personnel Board made and adopted the preceding resolution at its meeting held on December 19, 2006.

VOTE: Elkins, Harrigan, Tom – Aye

A handwritten signature in cursive script, reading "Floyd D. Shimomura", written over a horizontal line.

Floyd Shimomura
Executive Officer
California State Personnel Board